



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION  
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Chairman Elia Germani  
Commissioner Kate F. Racine  
Commissioner Brenda K. Gaynor

January 11, 2002

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room TW-B-204  
Washington, DC 20554

01-324

Re: In the Matter of the Application by Verizon New England, Inc. for  
Authorization Under Section 271 of the Communications Act to Provide  
In-Region InterLATA Service in the State of Rhode Island.

Dear Secretary Salas:

Enclosed is the Rhode Island Public Utilities Commission's (RIPUC's) Reply  
Comments regarding Verizon Rhode Island's Compliance with Section 271 of the  
Telecommunications Act of 1996.

Sincerely,

Elia Germani  
Chairman

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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

Application of Verizon New England Inc., )  
Bell Atlantic Communications, Inc. )  
d/b/a Verizon Rhode Island NYNEX Long )  
Distance Company (d/b/a Verizon )  
Enterprise Solutions), Verizon Global )  
Networks, Inc. (collectively Verizon) )  
Pursuant to Section 271 of the )  
Telecommunications Act of 1996 )  
To provide In-Region, InterLATA Services )  
in the State of Rhode Island and Providence )  
Plantations )

CC Docket No. 01-324

**REPLY COMMENTS OF THE  
RHODE ISLAND PUBLIC UTILITIES COMMISSION**

Rhode Island Public Utilities Commission

Elia Gernmani, Chairman  
Kate F. Racine, Commissioner  
Brenda K. Gaynor, Commissioner

89 Jefferson Boulevard  
Warwick, RI 02888  
(401) 941-4500

Staff and Counsel:  
Steven Frias, Esq.  
Cynthia G. Wilson, Esq.

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

Application of Verizon New England Inc.,	)	
Bell Atlantic Communications, Inc.	)	
d/b/a Verizon Rhode Island NYNEX Long	)	
Distance Company (d/b/a Verizon	)	
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Networks, Inc. (collectively Verizon)	)	
Pursuant to Section 271 of the	)	
Telecommunications Act of 1996	)	
To provide In-Region, InterLATA Services	)	
in the State of Rhode Island and Providence	)	
Plantations	)	

**REPLY COMMENTS OF THE  
RHODE ISLAND PUBLIC UTILITIES COMMISSION**

**I. INTRODUCTION**

On December 14, 2001, the Rhode Island Public Utilities Commission ("RIPUC") filed its Evaluation of Verizon New England, Inc.'s d/b/a Verizon Rhode Island ("VZ-RI") compliance with § 271 of the Telecommunication Act of 1996 ("Act"). Our Evaluation recommended that the Federal Communications Commission ("FCC") grant VZ-RI's § 271 application. The RIPUC has reviewed all of the comments filed by interested third parties as well as the evaluation of the United States Department of Justice ("DOJ"). Nothing contained in these comments causes us to reconsider our earlier stated view that VZ-RI meets the requirements of the § 271 competitive checklist, and that the local market in Rhode Island is reversibly open to competition.

## **II. CHECKLIST ITEM 2 – UNE PRICING**

Most of the commentators contend VZ-RI is not in compliance with Checklist Item 2, alleging that its prices for unbundled network elements (“UNEs”) in Rhode Island are not properly based on the FCC’s total-element, long-run incremental cost (“TELRIC”) method.<sup>1</sup> At the outset we note that neither WorldCom or AT&T were present at RIPUC’s October 15, 2001 public hearing at which testimony was given regarding VZ-RI’s UNE rates. Despite the fact that WorldCom and AT&T had ample opportunity to present witnesses and cross-examine VZ-RI’s witnesses at the hearing, neither did. Rather, AT&T and WorldCom simply bypassed the RIPUC, which is the appropriate UNE rate-setting entity, and instead presented the FCC with new arguments and detailed mathematical calculations regarding Rhode Island’s UNE prices.

In an effort to end the confusion generated by AT&T and WorldCom, we emphasize that many of the inputs, such as cost of capital, directed by the RIPUC to be included in future cost studies are already included in Rhode Island’s UNE rates. In fact, the current VZ-RI UNE recurring charges exactly reflect the position of the Rhode Island Division of Public Utilities and Carriers (“RIDPUC”) in the TELRIC proceedings. The inputs the RIPUC ordered to be incorporated in future TELRIC cost studies are assumptions, i.e., starting points that can be modified based on the evidence received in future Rhode Island TELRIC proceedings. Moreover, to the extent that the current UNE rates do not already reflect the inputs ordered by the RIPUC for the new cost studies, the approved UNE rates clearly represent a reasonable compromise between the rates proposed by VZ-RI and AT&T. The rates were supported by the RIDPUC and clearly fall within the range of reasonableness for TELRIC rates. The RIPUC did not require

some of the inputs for future cost studies to be incorporated in current UNE rates because the RIPUC wanted to receive and review more recent evidence on these inputs. In addition, the RIPUC was concerned that some of the evidence regarding these inputs that was presented during the TELRIC hearings in 1998 and 1999 could be considered out of date. In any case, having ordered new TELRIC cost studies to be submitted no later than May 1, 2002, the RIPUC intends to conduct its review of Rhode Island's UNE prices as expeditiously as possible, with the expectation that new UNE rates will be ordered by the end of 2002.

We reiterate our finding that Rhode Island's current UNE rates are TELRIC-compliant and within the range of reasonableness. Approximately 90 percent of Rhode Island's current UNE rates are lower than Massachusetts UNE rates.<sup>2</sup> Moreover, Rhode Island's new switching rates are lower than Massachusetts switching rates at the time of the FCC's § 271 approval in 2001.<sup>3</sup>

With regard UNE line port pricing, we note that neither AT&T or WorldCom specifically raised this issue at any time during the RIPUC's § 271 proceeding. Based on the evidence received during the proceeding, we note that the total cost for a line port and loop in Massachusetts is \$16.98 compared to \$18.08 in Rhode Island. Utilizing the FCC's high cost model for a port and loop, Rhode Island's cost should be approximately 114 percent of the costs of a port and loop in New York; however, the evidence presented indicates Rhode Island's price for a port and line is only 107 percent of the price in New York.<sup>4</sup> If AT&T or WorldCom disputed these calculations or questioned the price of the

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<sup>1</sup> See WorldCom Comments, AT&T Comments, and ASCENT Comments.

<sup>2</sup> RIPUC Order No. 16799 (issued November 28, 2001), p. 5.

<sup>3</sup> Id.

<sup>4</sup> Id., p. 4.

line port, they should have presented their arguments to the RIPUC during its § 271 proceeding so that the RIPUC could have further examined the issue.

Certainly, the new Rhode Island switching rates afford CLECs a meaningful opportunity to compete. According to AT&T, the new UNE switching rates will result in a wholesale cost of \$25.45 for UNE-Platform which is lower than the \$28.95 price of Verizon's Unlimited Local Calling Offer and represents a profit margin for CLECs.<sup>5</sup>

### **III. MISCELLANEOUS ISSUES**

We note that the time for VZ-RI to appeal our decision on dark fiber has expired pursuant to R.I.G.L. § 39-5-1. In addition, on December 14, 2001, VZ-RI made a compliance filing in conformity with our order regarding dark fiber.<sup>6</sup> Also, we note that the statistical methodology of Rhode Island's Performance Assurance Plan ("PAP") is identical to the methodology of the New York PAP.

### **IV. CONCLUSION**

The local market is undeniably open to competition in Rhode Island. Indeed, the DOJ recently issued its first favorable recommendation for a § 271 application after reviewing the level of Rhode Island's competition in both business and residential lines. The RIPUC has opened the door to competition in Rhode Island, but we cannot order potential competitors like AT&T to compete. An old adage is: you can lead a horse to water but you cannot make it drink. Unfortunately, AT&T would rather play the part of that tired old horse than compete.

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<sup>5</sup> *Id.*, pp. 5-6. The RIPUC also notes that contrary to AT&T's assertions, the RIPUC did, in fact, review AT&T's brief, as indicated by the fact that the brief was specifically cited in the RIPUC's § 271 evaluation to the FCC.

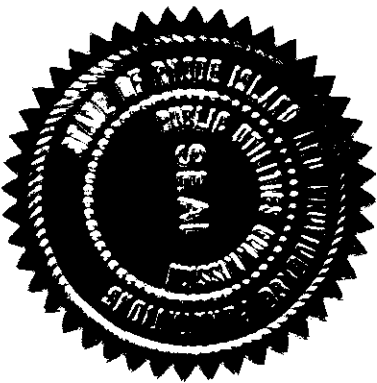
<sup>6</sup> PUC RI Tariff No. 18, Section 10.2.G.

Albeit this reply comment has been issued with an order number, it is not the intention of the RIPUC to treat it as an order. The order number is included exclusively for record keeping purposes.

(16830)


REPLY COMMENTS ISSUED JANUARY 10, 2002.

PUBLIC UTILITIES COMMISSION



  
Elia Germani, Chairman

  
Kate F. Racine, Commissioner

  
Brenda K. Gaynor, Commissioner